

## **STATEMENT OF FINAL AGENCY ACTION**

On May 22, 2000, the Board of Housing and Community Development adopted a final regulation entitled “Virginia Certification Standards” (13 VAC 5-21-10 et seq.).

## **EXPLANATION OF SUBSTANTIAL CHANGES**

A brief summary of the substantive regulatory amendments made since the proposed regulations were published is to:

1. Clarify that the department will verify not approve, proof of qualifications;
2. Update to the 2000 Edition of the BOCA Certification Program;
3. Add the ASME QEI-1 Standard as an acceptable alternate for elevator inspectors;
4. Change from DHCD to BHCD as approving alternate testing, examinations or education and experience for certification;
5. Reduce the list of prohibited acts, which may result in BHCD sanctions from eleven (11) to two (2); and
6. Require the board to respond within 60 days of receipt of a petition.

## **SUMMARY OF PUBLIC COMMENTS AND AGENCY'S RESPONSE**

The Board of Housing and Community Development received comment from 5 (five) statewide associations regarding the proposed Virginia Certification Standards. The key suggestions were:

1. Change from DHCD to BHCD as approving alternate testing, examinations or education and experience for certification;
2. Reduce the list of prohibited acts, which may result in BHCD sanctions from eleven (11) to two (2);
3. Require the board to respond within 60 days of receipt of a petition; and
4. Delete the State Building Code Technical Review Board from the appeals section and require the Board of Housing and Community Development to hear appeals.
5. Establish the “advisory review committee” as a full time committee to review all proposed board certification activities.

The Board of Housing and Community Development’s response to the public comment received regarding this regulation was to amend the proposed inline with suggestions 1 through 3 above and to not amend the proposed as suggested in 4 & 5 above.

## **SUMMARY OF REGULATION**

The final regulation consists of most of the existing technical provisions of the 1996 Virginia Certification Standards and contains most of the administrative provisions and formatting of the 1993 standards. The substantial amendments from proposed to final (i) clarify that the department will verify not approve, proof of qualifications; (ii) update to the 2000 Edition of the BOCA Certification Programs; (iii) add the ASME QEI-1 Standard as an acceptable alternate for elevator inspectors; (iv) change from DHCD to BHCD as approving alternate testing, examinations or education and experience for certification; (v) reduce the list of prohibited acts, which may result in BHCD sanctions from eleven (11) to two (2); and (vi) require the board to respond within 60 days of receipt of a petition.

## **STATEMENT OF BASIS, PURPOSE, SUBSTANCE AND ISSUES**

### **Basis:**

Section 36-137 of the Code of Virginia directs the board to establish training requirements for code officials and assistants and issue certificates of competence regarding the building and fire regulations promulgated by the board to present or prospective personnel of local governments and to any other persons seeking to become qualified to perform inspections and to make such rules and regulations as may be necessary to carry out its responsibilities and repeal or amend such rules when necessary.

### **Purpose:**

The purpose of the proposed amendments is to protect the safety of the residents of the Commonwealth by clarifying regulations for the issuance of competence certificates or the imposition of sanctions with regard to certificate holders and candidates seeking certification by the Board of Housing and Community Development to perform inspections under the Statewide Fire Prevention Code and inspections of structures based on the Uniform Statewide Building Code and the Virginia Amusement Device Regulations.

### **Substance:**

The new substantive provisions between the proposed and the final regulation are:

7. Clarify that the department will verify not approve, proof of qualifications;
8. Update to the 2000 Edition of the BOCA Certification Program;
9. Add the ASME QEI-1 Standard as an acceptable alternate for elevator inspectors;
10. Change from DHCD to BHCD as approving alternate testing, examinations or education and experience for certification;
11. Reduce the list of prohibited acts, which may result in BHCD sanctions from eleven (11) to two (2); and
12. Require the board to respond within 60 days of receipt of a petition.

### **Issues:**

The primary advantage to the public of the proposed amendments is a more uniform application of the USBC, VADR, SFPC and these standards across the Commonwealth. The primary advantage to the department is fewer questions due to the clarifying nature of the amendments. There are no disadvantages to the public or the department.

13 VAC 5-21-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Active certificate holder" means any certificate holder who has attended the required DHCD-designated periodic training courses and is classified by DHCD as active.

"Applicant" or "candidate" means any person seeking to become qualified to provide enforcement or perform inspections or reviews under the applicable BHCD regulation by obtaining a certificate from the BHCD.

"BHCD" means the Virginia Board of Housing and Community Development.

"Certificate holder" means any person certified by the BHCD under this chapter and classified by DHCD as active or inactive.

"Code Academy" means the Virginia Building Code Academy established pursuant to under § 36-139 of the Code of Virginia[and educational institutions established in accordance with §36-137 of the Code of Virginia which are accredited by DHCD under 13 VAC 5-80-10 et seq. to conduct classes to prepare individuals pursuing occupations in the building or fire inspection professions, or to upgrade individuals in technical phases of building and fire regulations and codes].

"Code enforcement agency" means the agency or agencies to which responsibility for enforcement of the USBC, VADR, or SFPC has been assigned.

"Code inspection agency" or "code review agency" means any department, division, company, individual or agency to which inspection or construction document review responsibility under the applicable USBC, VADR, or SFPC has been assigned or delegated and, in addition, shall include such entities whose reports of inspection or review will be the basis of approvals under the applicable USBC, VADR, or SFPC.

"DFP" means the Virginia Department of Fire Programs.

"DHCD" means the Virginia Department of Housing and Community Development's ~~Training and Certification Office~~ Development.

"Inactive certificate holder" means any certificate holder who has not attended the required DHCD-designated periodic training courses and is classified by DHCD as inactive.

"SFPC" means the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et seq.).

"USBC" means the Virginia Uniform Statewide Building Code (13 VAC 5-6110 et seq.).

"TRB" means the Virginia State Building Code Technical Review Board established under § 36-108 of the Code of Virginia.

"VADR" means the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.).

13 VAC 5-21-20. Purpose.

The purpose of this chapter is to establish categories of and requirements for obtaining certificates of competence to be issued by the ~~Virginia Board of Housing and Community Development~~ BHCD concerning the content, application and intent of specified subject areas of the ~~building and fire regulations promulgated by the board~~ USBC, VADR and SFPC to present or prospective personnel of local governments and to any other persons seeking to be qualified to perform inspections ~~pursuant to~~ under Chapter 6 (§ 36-97 et seq.) of Title 36 of the Code of Virginia and any regulations adopted thereunder.

13 VAC 5-21-30. ~~Certificates of competence and training requirements relating to the USBC.~~  
(Repealed.)

~~A. Building code official. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC. Completion of the core and advanced modules of the code academy is required for obtaining the certificate.~~

~~B. Building maintenance code official. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to the maintenance of existing~~

~~buildings and structures. Completion of the core and existing building modules of the code academy is required for obtaining the certificate.~~

~~C. Combination inspector. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to on-site inspection of buildings and structures. Completion of the core, building code, plumbing code, electrical code, and mechanical code modules of the code academy is required for obtaining the certificate.~~

~~D. Building inspector. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to on-site inspection of buildings and structures except for the plumbing, electrical and mechanical systems. Completion of the core and building code modules of the code academy is required for obtaining the certificate.~~

~~E. Fire protection inspector. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on-site inspections of buildings and structures for compliance with fire resistant materials and construction, fire protection system and means of egress requirements of the USBC. Completion of the core module of the code academy is required for obtaining the certificate.~~

~~F. Building plans examiner. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with the USBC except for the plumbing, electrical and mechanical systems. Completion of the core and building plan review modules of the code academy is required for obtaining the certificate.~~

~~G. Fire protection plans examiner. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with fire resistant materials and construction, fire~~

~~protection system and means of egress requirements of the USBC. Completion of the core and building plan review modules of the code academy is required for obtaining the certificate.~~

~~H. Electrical inspector. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on site inspection of electrical systems in buildings and structures. Completion of the core and electrical modules of the code academy is required for obtaining the certificate.~~

~~I. Electrical plans examiner. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with electrical system requirements of the USBC. Completion of the core and electrical modules of the code academy is required for obtaining the certificate.~~

~~J. Plumbing inspector. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on site inspection of plumbing systems in buildings and structures. Completion of the core and plumbing modules of the code academy is required for obtaining the certificate.~~

~~K. Plumbing plans examiner. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with plumbing system requirements of the USBC. Completion of the core and plumbing modules of the code academy is required for obtaining the certificate.~~

~~L. Mechanical inspector. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on site inspection of mechanical systems in buildings and structures. Completion of the core and mechanical modules of the code academy is required for obtaining the certificate.~~

~~M. Mechanical plans examiner. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to reviewing plans and specifications for buildings and structures for compliance with mechanical system requirements of the USBC. Completion of the core and mechanical modules of the code academy is required for obtaining the certificate.~~

~~N. Combination inspector for one and two family dwellings. The certificate evidences competence concerning the content, application and intent of all subject areas of the USBC relating to on site inspection of buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion of the core and one and two family dwelling building, plumbing, electrical, and mechanical modules of the code academy is required for obtaining the certificate.~~

~~O. Building inspector for one and two family dwellings. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on site inspection of the construction of buildings as either Use Group R-3 or R-4 under the USBC, except for the plumbing, electrical and mechanical systems. Completion of the core and one and two family dwelling building modules of the code academy is required for obtaining the certificate.~~

~~P. Electrical inspector for one and two family dwellings. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on site inspection of electrical systems in buildings constructed as either Use Group R-3 or R-4 under the USBC. Completion of the core and one and two family dwelling electrical modules of the code academy is required for obtaining the certificate.~~

~~Q. Plumbing inspector for one and two family dwellings. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on site inspection of plumbing systems in buildings constructed as either Use Group R-3 or R-4 under the~~

~~USBC. Completion of the core and one and two family dwelling plumbing modules of the code academy is required for obtaining the certificate.~~

~~R. Mechanical inspector for one and two family dwellings. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on site inspection of mechanical systems in buildings constructed as either Use Group R3 or R4 under the USBC. Completion of the core and one and two family dwelling mechanical modules of the code academy is required for obtaining the certificate.~~

~~S. Elevator inspector. The certificate evidences competence concerning the content, application and intent of subject areas of the USBC relating to on site inspection of elevators. Completion of the core module of the code academy is required for obtaining the certificate.~~

~~13 VAC 5-21-40. Certificates of competence and training requirements relating to the SFPC. (Repealed.)~~

~~A. Fire prevention code official. The certificate evidences competence concerning the content, application and intent of all subject areas of the SFPC. Completion of the core and advanced modules of the code academy is required for obtaining the certificate.~~

~~B. Fire prevention inspector. The certificate evidences competence concerning the content, application and intent of all subject areas of the SFPC relating to on site inspection of buildings, structures and property. Completion of the core module of the code academy and the 1031 school administered by the Virginia Department of Fire Programs is required for obtaining the certificate.~~

~~13 VAC 5-21-50. Certificate and training requirements relating to the Virginia Amusement Device Regulations (13 VAC 5-31-10 et seq.). (Repealed.)~~

~~The certificate of competence as an amusement device inspector evidences competence concerning the content, application and intent of all subject areas of the Virginia Amusement Device~~

~~Regulations (13 VAC 5-31-10 et seq.). Completion of the core and basic amusement device modules of the code academy is required for obtaining the certificate.~~

~~13 VAC 5-21-60. Proof of completion of examination and application for certificate. (Repealed.)~~

~~In addition to the training requirements established by this chapter, applicants for a certificate of competence shall provide proof of successful completion of examinations determined necessary by DHCD for each type of certificate sought and other information as required. DHCD maintains a list of examinations and approved testing agencies for each examination. Application forms are available from DHCD.~~

13 VAC 5-21-31. Proof of qualifications for certificate and examination.

A. Applicants for a BHCD certificate shall provide proof of qualifications for certification as required in the USBC, SFPC or VADR as applicable for each type of certificate sought. Such proof of qualifications shall be provided to and [approved/verified] by DHCD prior to BHCD certification.

B. In addition to the training requirements established by this chapter, applicants shall provide proof of successful completion of approved examinations for each type of certificate sought. The following is the list of approved testing agencies and examinations for each type of certificate:

1. All categories of BHCD certificates except amusement device inspector[, fire prevention code official and fire prevention inspector]:

The BOCA Certification Program/[1999/2000], First Edition, published by Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795, toll free number 1-800-323-1103.

[Exception: Elevator inspectors certified in accordance with the ASME QEI-1 Standard by organizations accredited by ASME International, Elevator Inspector Certification Organization

Accreditation Program shall be deemed acceptable as an alternate. ASME International, Three Park Avenue, New York, NY 10016-5990, toll free number 1-800-843-2763]

2. Amusement device inspector:

Exterior[Assessments], 3813 Gaskins Road, Richmond, VA 23233, toll free number 1-800-356-3381.

[3. Fire prevention code official and fire prevention inspector:

Virginia Department of Fire Programs (DFP). James Monroe Building, 101 N. 14th St., 18th Floor, Richmond, VA 23219-3684, Phone (804) 371-0220]

C. Upon written request by the applicant, the [DHCDBHCD] may approve alternate testing agencies and examinations or may approve any combination of education and experience which would in other ways demonstrate adequate knowledge for the type of certificate sought.

Note: Future amendments to the list of approved testing agencies and examinations do not automatically become part of this chapter; however, the [DHCDBHCD] shall consider such amendments in deciding whether a requested alternate should be granted.

13 VAC 5-21-41. Categories and requirements.

[A. ]Categories of BHCD certificates, Code Academy training and subject area requirements are as provided for in the following table:

<u>Categories of BHCD certificates</u>	<u>Code Academy training requirements</u>	<u>Subject area requirements</u>
	<u>Core and "_____"</u> <u>modules</u>	<u>Content, application and intent of all subject areas of the "_____"</u>
<u>Building code official</u>	<u>Advanced</u>	<u>USBC</u>
<u>Fire prevention code official</u>	<u>Advanced and the 1031 school administered by the DFP</u>	<u>SFPC</u>

<u>Building maintenance code official</u>	<u>Advanced and property maintenance</u>	<u>USBC - existing structure maintenance</u>
<u>Building plans examiner</u>	<u>Building plan review</u>	<u>USBC - structure plans and specifications review, except plumbing, electrical and mechanical</u>
<u>Fire protection plans examiner</u>	<u>Building plan review</u>	<u>USBC - fire-resistant materials and construction, fire protection system and means of egress plans and specifications review</u>
<u>Building inspector</u>	<u>Building code</u>	<u>USBC - structure inspections, except plumbing, electrical and mechanical</u>
<u>Fire prevention inspector</u>	<u>The 1031 school administered by the DFP</u>	<u>SFPC - structure and property inspections</u>
<u>Fire protection inspector</u>	<u>"only core module"</u>	<u>USBC - fire-resistant materials and construction, fire protection system and means of egress</u>
<u>Building maintenance inspector</u>	<u>Property maintenance</u>	<u>USBC relating to existing structure maintenance inspections</u>
<u>Plumbing plans examiner</u>	<u>Plumbing</u>	<u>USBC - plumbing system plans and specifications review</u>
<u>Plumbing inspector</u>	<u>Plumbing</u>	<u>USBC - plumbing system inspections</u>
<u>Electrical plans examiner</u>	<u>Electrical</u>	<u>USBC - electrical system plans and specifications review</u>
<u>Electrical inspector</u>	<u>Electrical</u>	<u>USBC - electrical system inspections</u>

<u>Mechanical plans examiner</u>	<u>Mechanical</u>	<u>USBC - mechanical system plans and specifications review</u>
<u>Mechanical inspector</u>	<u>Mechanical</u>	<u>USBC - mechanical system inspections</u>
<u>Combination inspector</u>	<u>BHCD certification as a building, plumbing, electrical, and mechanical inspector</u>	<u>USBC - structure inspections, except Use Group R-3 or R-4</u>
<u>Building inspector 1- &amp; 2-family dwellings</u>	<u>1- &amp; 2-family dwelling building</u>	<u>USBC - Use Group R-3 or R-4 structure inspections, except plumbing, electrical and mechanical</u>
<u>Plumbing inspector 1- &amp; 2-family dwellings</u>	<u>1- &amp; 2-family dwelling plumbing</u>	<u>USBC - Use Group R-3 or R-4 plumbing inspections</u>
<u>Electrical inspector 1- &amp; 2-family dwellings</u>	<u>1- &amp; 2-family dwelling electrical</u>	<u>USBC - Use Group R-3 or R-4 electrical inspections</u>
<u>Mechanical inspector 1- &amp; 2-family dwellings</u>	<u>1- &amp; 2-family dwelling mechanical</u>	<u>USBC - Use Group R-3 or R-4 mechanical inspections</u>
<u>Combination inspector 1- &amp; 2-family dwellings</u>	<u>BHCD certification as a 1- &amp; 2-family dwelling building, plumbing, electrical, and mechanical inspector</u>	<u>USBC - Use Group R-3 or R-4 structure inspections</u>
<u>Elevator inspector</u>	<u>"only core module"</u>	<u>USBC - elevator inspections</u>
<u>Amusement device inspector</u>	<u>Basic amusement device</u>	<u>VADR</u>

[B. The DHCD may approve other Code Academy equivalent educational training modules.]

13 VAC 5-21-51. Certification.

A. A certification under this chapter [mayshall] be issued when the BHCD determines a candidate has complied with the applicable provisions of this chapter.

B. All certificate holders certified by the BHCD since June 1978 are still certified unless revoked and shall be classified as active or inactive. Any certificate holder classified as inactive shall be deemed not to meet the certification requirements of the applicable USBC, VADR, or SFPC. Such inactive certificate holder may attend DHCD designated training and become an active certificate holder.

C. Candidates seeking a BHCD certificate in accordance with this chapter may be issued a provisional certificate under the following conditions:

1. The candidate has satisfactorily completed the Code Academy core module.

2. The candidate has complied with the proof of examination completion and application for certification requirements.

3. An appropriate code official, county, city or town manager or other code inspection agency official certifies the candidate is trained and competent to perform the candidate's assigned code enforcement duties.

4. Such certification is nonrenewable and shall expire one year from the date of issuance.

Exception: Such certification is renewable and shall not expire one year from the date of issuance when the DHCD has not provided or offered the required Code Academy training technical module. [However, under 13 VAC 5-21-41(B) the DHCD may approve appropriate alternate training.]

D. A certification under this chapter may be denied when the BHCD determines a candidate has not complied with the applicable provisions of this chapter.

13 VAC 5-21-61. Sanctions; peer review; petition.

A. [When the BHCD determines a certificate holder has failed (i) to maintain a minimally acceptable level of competence under §36-137(6) of the Code of Virginia or (ii) to comply with an order issued by the BHCD or TRB, the] BHCD may impose any of the following sanctions on a certificate holder:

1. A warning letter under this chapter may be issued when the BHCD determines a certificate holder committed any act prohibited by this chapter. The documentation that serves as the basis for such letter shall be made a part of the certification file on the certificate holder.

2. Attendance at special training under this chapter may be ordered when the BHCD determines a certificate holder is inadequately knowledgeable or trained to practice in the specific area of certification. A probation period may also be imposed by the BHCD upon completion of all such training.

3. A certificate issued under this chapter may be revoked or suspended [when] by the BHCD[. determines that a certificate holder has committed any of the following acts:

a. Failed to maintain a minimally acceptable level of competence;

b. Engaged in any conduct that demonstrates incompetence or dishonesty;

c. Obtained or renewed a certificate by fraud or misrepresentation;

d. Aided or abetted a noncertified person to practice as a certificate holder;

e. Fraudulently or deceitfully practiced as a certificate holder;

f. Been grossly negligent or engaged in misconduct in the performance of any duties under the BHCD's regulations;

g. Failed to report an offer or bribe in an application of the provisions of the BHCD's regulations;

~~h. Failed to comply with any order issued by the BHCD, DHCD or TRB;~~

~~i. Made a false or misleading written statement to the BHCD, DHCD or TRB;~~

~~j. Violated or failed to enforce the provisions of the BHCD's regulations; or~~

~~k. Been convicted of a crime or an offense concerning his performance as a certificate holder.]~~

B. An advisory review committee may be appointed by the BHCD to advise the department concerning the appropriateness of sanctions proposed against a certificate holder who has allegedly committed any act prohibited by this chapter. The advisory review committee shall serve and meet only when requested by the BHCD and comply with the following:

1. The advisory review committee shall consist of five certificate holders.

2. The advisory review committee shall ~~annually~~ select one of its members to serve as chairman.

3. A member shall not take part in a review in which that member has any personal, professional or financial interest.

4. The Director of DHCD shall designate a qualified staff person to serve as secretary to the advisory review committee and shall provide necessary staff support. The secretary shall file a detailed record of all meetings and recommendations with the BHCD.

5. There shall be no compensation of members, except for reimbursement of travel expenses as provided for by law.

6. The advisory review committee shall meet within 10 days upon notice from the chairman.

C. Following a certification denial, warning letter, special training order, or revocation or suspension of a certificate, the candidate or certificate holder may petition the BHCD for issuance of certification, dismissal of such warning or order, or for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached by the BHCD.

D. The BHCD shall cause an examination, investigation or review of the evidence and [shall respond[ within 60 days of receipt of the petition] to the candidate or certificate holder regarding such petition.

13 VAC 5-21-71. Appeal.

Decisions of the BHCD regarding a candidate or certificate holder shall be final if the candidate or certificate holder makes no appeal. Such candidate or certificate holder may present an appeal from the BHCD's decision directly to the TRB under § 36-114 of the Code of Virginia. All BHCD negative responses shall contain the following statement:

"Upon receipt of the BHCD's decision, the candidate or certificate holder may appeal to the State Building Code Technical Review Board (TRB) by submitting an application to the TRB within 30 calendar days. Application forms are available from the Office of the TRB, 501 N. 2nd St., Richmond, VA 23219, (804) 371-7150."

I certify that this regulation is full, true, and correctly dated.

\_\_\_\_\_  
William C. Shelton, Director  
Department of Housing and Community Development  
Date: \_\_\_\_\_

**CONFIRMATION FROM THE OFFICE OF THE ATTORNEY GENERAL**